Office of The Ombudsman, Hong Kong

Direct Investigation Report

Education Bureau's Mechanisms for Approving Applications for School Fee Revision by Direct Subsidy Scheme/Private Schools and Collection of Other Charges by Private Schools

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Executive Summary
Direct Investigation Report

Education Bureau's Mechanisms for Approving Applications for School Fee Revision by Direct Subsidy Scheme/Private Schools and Collection of Other Charges by Private Schools

Introduction

Every year, quite a number of Direct Subsidy Scheme ("DSS") schools and private schools (including international schools, as used hereinafter) in Hong Kong are given approval by the Education Bureau ("EDB") to revise their school fees. The media reported that some DSS/private schools had increased school fees by as much as 20%. There are concerns in the community that EDB's approval mechanism is not rigorous enough, such that the applications for school fee revision submitted by those schools are often approved. Apart from school fees, many private schools also raise capital by collecting other charges, such as debentures, school construction fees and nomination right fees (collectively referred to as "other charges"). Those other charges, in various forms and names, refundable or non-refundable, range from a few thousand to a few million dollars.

Provisions under Education Ordinance and Education Regulations

2. The Education Ordinance prescribes, under section 84(1), that the Chief Executive in Council may make regulations providing for the fees and other charges made by schools. Its subsidiary legislation, the Education Regulations, sets out the provisions regarding school fees and other charges. In particular, it is provided under regulation 61(1) that unless approved by EDB, no school shall charge or accept payment of any fees other than the

inclusive fees as printed on the certificate issued by EDB.

Our Findings

3. Regarding EDB's mechanisms for approving the applications for school fee revision by DSS/private schools, and the collection of other charges by private schools, our findings and comments are as follows.

EDB's Mechanisms for Approving Applications for School Fee Revision by DSS/Private Schools

4. EDB has established and has been following the existing mechanisms to approve the applications for school fee revision by DSS/private schools. Regardless of the percentage of increase in their applications for school fee revision, DSS/private schools must submit to EDB their justification for application, information on their financial positions and information about parent consultation/notification. EDB has also imposed a threshold of school fee increase ("the Threshold") on DSS schools' applications for school fee revision. If a DSS school proposes to increase school fees at a percentage higher than the Threshold, or if, despite being at a percentage equal to or lower than the Threshold, its accumulated total operating reserve at the end of the previous school year exceeded its annual operating expenses in the same year, the school must conduct a full consultation with parents and receive consent to the school fee revision from an overwhelming majority of the parents who return the reply slips.

5. The statistics from EDB show that during the five school years from 2014/15 to 2018/19, the number of DSS schools which had applied for school fee revision each year represented 48% to 57% of the total number of DSS schools in Hong Kong. Except for one application, which was rejected, all the other applications were approved, of which most (70% to 87%) were permitted for fee increase at a percentage lower than the Threshold.

6. During the same period, the number of private schools which had applied for school fee revision represented 73% to 81% of the total number of private schools in Hong Kong. All except five of the applications were approved by EDB. Starting from the 2018/19 school year, EDB has required those private schools applying for drastic fee increase or having revised their school fees in consecutive years to enclose documents to show justification and necessity for the school fee revisions. Before the 2018/19 school year, EDB had all along decided whether to approve the applications according to the established mechanism by reviewing the private schools' justification for application, financial position and information about parent consultation/notification. In the 2018/19 school year, only two (1.5%) private schools were given approval to increase school fees by more than 10%, one at about 11% and the other about 14%.

7. Given the media reports that some DSS/private schools increased school fees by as much as 20%, we have scrutinised information about their applications for school fee revision approved during the five school years from 2014/15 to 2018/19. Based on the information provided by EDB, there were indeed DSS/private schools given approval to increase school fees at a percentage close to or higher than 20%, either across all grades or for certain grades. However, those were only isolated cases. EDB has explained why it approved the applications for school fee revision at higher percentages submitted by some DSS/private schools. We find no impropriety on the part of EDB in making approval according to its established mechanisms after reviewing the schools' justification for application, financial position and the opinions of parents.

EDB's Mechanism for Approving Collection of Other Charges by Private Schools

8. EDB is the designated department responsible for monitoring the operation of schools under the Education Ordinance and the Education Regulations. Over the years, the Bureau has been

adopting a liberal approach in its interpretation of relevant provisions based on the legal advice received a long time ago, which considered the collection of other refundable charges by private schools a private financial arrangement between the schools and parents, and hence not requiring approval from the Bureau. During the course of this direct investigation, we pointed out to EDB that its long-established practice is incompatible with regulation 61(1) of the Education Regulations. After seeking further legal advice, EDB conceded that the collection of any other charges (refundable or otherwise) by private schools in relation to the school education received by students should be subject to the Bureau’s approval.

9. As regards other charges which are non-refundable, EDB indicated that it would consider the relevant applications from private schools on the basis of their justification for application, including such information as the purpose, needs of the schools and students, communication between the schools and parents, financial position of the schools and their relevant accounts. Nevertheless, EDB is unable to give clear details on the overall application mechanism, procedures and approval criteria, which shows that it has not fully comprehended the situation about other charges collected by private schools.

10. EDB has now gathered information from private schools about other charges collected by them and largely completed a preliminary analysis. It intends to seek further professional advice before drawing up the application and approval procedures for the various forms of other charges, and then make relevant announcements to inform the private schools.

Recommendations

11. Given that EDB has now clarified its purview over the collection of other charges by private schools, The Ombudsman recommends that EDB:

(1) establish a more comprehensive application and approval mechanism regarding other charges collected by private schools, and make announcements to inform private schools and other stakeholders as soon as possible; and

(2) create a database on other charges collected by private schools to keep track of the overall situation.

Office of The Ombudsman
January 2020

1

INTRODUCTION

BACKGROUND

1.1 According to information published by the Education Bureau ("EDB"), more than 100 Direct Subsidy Scheme ("DSS") schools[1] and private schools (including international schools, as used hereinafter) in Hong Kong were given approval to revise their school fees for the 2017/18 school year. EDB indicated that it has established procedures for approving applications for school fee revision submitted by DSS/private schools. Nevertheless, the media reported that some DSS/private schools had increased school fees by as much as 20% in that school year. There are concerns in the community that EDB's approval mechanism is not rigorous enough, such that the applications for school fee revision submitted by those schools are often approved, thereby placing a heavy financial burden on parents.

1.2 Apart from school fees, many private schools also raise capital by collecting other charges, such as debentures, school construction fees, nomination right fees and capital project levies (collectively referred to as "other charges"). Those other charges, in various forms and names, refundable or non-refundable, range from a few thousand to a few million dollars.

1.3 Due to rising public concerns over the school fee revision by DSS/private schools and the collection of other charges by private schools, The Ombudsman decided to launch a direct

[1] Pursuant to section 3 of the Education Ordinance, DSS school means a school which has joined the Direct Subsidy Scheme administered by the Permanent Secretary for Education under which the school receives subsidy directly from the Government on such terms and conditions as specified by the Government from time to time.

investigation into EDB’s mechanisms for approving applications for school fee revision by DSS/private schools and collection of other charges by private schools, with a view to making recommendations for improvement to the Bureau.

PROCESS OF INVESTIGATION

1.4 In April 2018, this Office initiated a direct investigation against EDB pursuant to section 7(1)(a)(ii) of The Ombudsman Ordinance. In June 2018, we issued a press release to invite views from members of the public, particularly parents, parent associations, the education sector and sponsoring bodies.

1.5 On 16 August 2019, we issued a draft investigation report to EDB for comments. This final report, incorporating the Bureau’s comments, was completed on 9 January 2020.

2

RELEVANT LEGISLATION

EDUCATION ORDINANCE AND EDUCATION REGULATIONS

2.1 The Education Ordinance prescribes, under section 84(1), that the Chief Executive in Council may make regulations providing for the fees and other charges made by schools[2]. Its subsidiary legislation, the Education Regulations, sets out the provisions regarding school fees and other charges, including:

(1) Section 60: Submission of particulars of inclusive fees

The management authority of every school shall submit to the Permanent Secretary for Education ("PS for Education") when required by him particulars of the inclusive fee.

(2) Section 60A(1): Certificate of inclusive fees

(i) Upon approving a change in the inclusive fee under regulation 65 (see below) in respect of a school, the PS for Education shall cause the particulars of the inclusive fee or the inclusive fee as changed, as the case may be, to be printed on a certificate in the specified form; and (ii) issue the certificate to the management authority.

[2] Pursuant to section 3 of the Education Ordinance, school means an institution, organisation or establishment which provides for 20 or more persons during any one day or 8 or more persons at any one time, any nursery, kindergarten, primary, secondary or post secondary education or any other educational course by any means, including correspondence delivered by hand or through the postal services.

(3) Section 61(1): Fees other than inclusive fee prohibited

Subject to other regulations stipulated by the PS for Education hereunder, no management authority, manager or teacher shall charge or accept payment of any money or any school fees whatsoever other than the inclusive fees as printed on the certificate issued under regulation 60A(1)(ii).

Provided that additional charges, moneys or fees (including entrance examination fees and pupil registration and withdrawal fees) may be charged if previously approved by the PS for Education in writing and if such approval is kept exhibited together with the certificate kept exhibited under regulation 67 (see below).

(4) Section 64: Accounts

The management authority of every school shall—

(a) keep proper accounts;

(b) make the accounts and any vouchers relating to the accounts available at all reasonable times for inspection by the PS for Education or any inspector of schools;

...

(5) Section 65: Approval for change in fee

No change in the inclusive fee shall be made without the written approval of the PS for Education.

(6) Section 67: Duty to exhibit certificate

The certificate issued in respect of a school under regulation 60A(1)(ii) shall be kept conspicuously exhibited at a prominent position in the school.

3

EDB's Mechanisms for Approving Applications for School Fee Revision by DSS/Private Schools

3.1 The local school system is mainly comprised of public sector schools, including government schools operated directly by the Government, as well as aided schools[3] and caput schools[4] subvented fully by the Government and managed by their Incorporated Management Committee or School Management Committee. Public sector schools are required to adopt the local curriculum recommended by the Government and provide eligible students with free primary and secondary education. Basically, the Government maintains adequate supply of public sector school places for all eligible students. Parents, if they so wish, can choose to send their children into schools outside the public sector.

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[3] According to section 3 of the Education Ordinance, aided school means any school that receives subsidies from the Government in accordance with the code of aid for primary schools, the code of aid for secondary schools or the code of aid for special schools.

[4] Caput schools are schools that receive government assistance in the form of a per capita grant (i.e. the subsidised amount is calculated as per the number of students). In the 2018/19 school year, there were 65 government schools, 781 aided schools and two caput schools in Hong Kong.

3.2 Apart from public sector schools, the local school system also includes DSS schools, which can charge school fees and receive government subsidies based on the number of students enrolled, and private schools, which are self-financed. DSS/private schools operate in modes different from those of public sector schools, particularly in terms of curriculum design, student admission and fee collection. DSS schools have greater flexibility over student admission and curriculum design, but they are still required to offer principally a local curriculum targeted at local students. As for private schools, they are allowed to offer different curricula (including local and non-local curricula) according to their founding purpose and mission. Unlike public sector schools, DSS/private schools can admit not only non-local children who are holders of specific documents, but also non-local children whose travel documents bear the endorsement permitting them to reside in Hong Kong for the purpose of education, although they are not allowed to be admitted to public sector schools.

3.3 In the 2018/19 school year, there were 81 DSS schools and 166 private schools in Hong Kong.

DSS/PRIVATE SCHOOLS CAN CHARGE SCHOOL FEES

3.4 In terms of financial resources, the Government provides DSS schools (currently all are required to be non-profit-making) with a block grant of recurrent subsidies. DSS schools can also charge school fees for providing students with extra teaching and support services, and for enhancing school facilities and teaching environment to achieve their mission and teaching objectives, and to meet the various development needs of students. Moreover, DSS schools are required to set aside not less than 10% of the total school fee income to provide fee remission and scholarship[5], so as

[5] The school fee income of DSS schools forms part of their non-government funds. It is stipulated by EDB that non-government funds should be deployed for purposes directly benefiting students. DSS schools are required to submit to EDB the audited accounts annually to report their income and expenditure, thereby confirming that the funds had been used for education and school needs. To meet the public expectation of increased accountability and transparency in the operation of DSS schools, they are required by EDB to upload their School Development Plans, Annual

to ensure that the learning of students are not impeded by their families' financial difficulties. Given that DSS schools are funded by general revenue and their service targets are local students, EDB, when approving the applications for school fee revision by DSS schools, will carefully review the budgets submitted by the schools and their justification for school fee revision. In addition, EDB will make sure that the schools have already consulted the parents, provided them with the schools' relevant financial information and explained the reasons for school fee revision, as well as obtained support from parents in general. When handling the applications for school fee revision by private schools, EDB will also consider the justification submitted by the schools and their financial position, and will remind the schools that they should maintain adequate communication with parents about the matter of school fee revision and address their concerns.

School Plans and School Reports (which include a financial summary) to their websites annually for public reference. DSS schools are required to disclose their major expenses (including fee remission, scholarship, etc.) in the School Reports.

3.5 EDB explained that since DSS schools are publicly funded and all non-profit-making, while private schools are self-financed[6] and their service targets and modes of operation are not entirely the same, EDB has in place different mechanisms for approving the applications for school fee revision by DSS schools and private schools respectively.

EDB'S MECHANISM FOR APPROVING APPLICATIONS FOR SCHOOL FEE REVISION BY DSS SCHOOLS

3.6 Around every March, EDB will issue a letter to all DSS schools setting out the documents and information to be submitted, relevant procedures and points to note for those intend to apply for school fee revision for the next school year. DSS schools have to submit, by the end of April, a duly completed application form with the relevant justification and supporting documents, to EDB for approval. After receiving the applications from schools, EDB will review the financial information (including the accumulated operating reserve, operating expenses, budget, etc.) submitted by the schools and their justification for school fee revision.

Threshold of School Fee Increase and Parent Consultation

3.7 From the 2008/09 school year, EDB has set a threshold of school fee increase ("the Threshold")[7] annually before handling the applications for school fee revision by DSS schools. The Threshold is not a benchmark on whether a school is permitted to revise its school fees or the percentage of fee revision. Instead, it is used to decide whether a school needs to conduct a full consultation with parents on the proposed fee revision. EDB stated that it works out

[6] The English Schools Foundation ("ESF") has a background different from that of other private schools with regard to government subsidies and management. In the past, the Government had been providing 15 international schools under ESF with recurrent subsidies. Subsequently, in 2011, the Government reviewed its arrangements on subsidising ESF. From the 2016/17 school year, the Government started phasing out, over a period of 13 years, the recurrent subsidies for ESF.

[7] EDB determines the Threshold annually with reference to such factors as the change in consumer prices (including payroll and non-payroll costs).

the Threshold based on the rate of change in consumer prices which have an impact on DSS schools (with reference to the percentage of average pay rise for staff of aided schools (see **note 3**) as the payroll benchmark[8], and the Composite Consumer Price Index[9] as the non-payroll benchmark), topped up with an "extra buffer" of 2.5% set by EDB. EDB explained that the "extra buffer" is for allowing DSS schools certain flexibility to cope with additional support services and expenses.

3.8 During the five school years from 2014/15 to 2018/19, the Threshold set for DSS schools is given below:

Table 1: Threshold of school fee increase by DSS schools

School year	**2014/15**	**2015/16**	**2016/17**	**2017/18**	**2018/19**
Threshold of school fee increase	7%	7%	7%	6%	6%

3.9 If a DSS school proposes to increase school fees at a percentage higher than the Threshold, or its accumulated total operating reserve at the end of the previous school year exceeded its annual operating expenses in the same year (even though the proposed percentage of fee increase is equal to or lower than the Threshold), the school must conduct a full consultation with parents and receive consent to the school fee revision from an overwhelming majority of the parents who return the reply slips. In its letter issued to the schools (see **para. 3.6**), EDB will attach a default form in relation to the parent consultation. The schools are specially required to complete the default form for reporting the process and results of parent consultation (including the total number of reply slips received from parents and the total number of

8 EDB adopts the most recent figures (i.e. the percentage of average pay rise for staff of aided schools in the previous school year) for calculation purpose.

9 EDB adopts the latest Composite Consumer Price Index published by the Census and Statistics Department.

students covered in the parent consultation), and how they have addressed the concerns raised by parents about school fee revision. In the letter/circular issued to parents, the schools must explain their reasons for school fee revision and provide relevant financial information, including the schools' accumulated operating reserve. A reply slip should be attached with the letter/circular for parents to give their opinion. The schools are also required to submit a copy of the letter/circular (with information on the schools' financial position attached) issued to parents and the reply slip to EDB for approval.

3.10 If a DSS school proposes to increase school fees at a percentage equal to or lower than the Threshold, and its accumulated total operating reserve at the end of the previous school year did not exceed its annual operating expenses in the same year, the school is still required to conduct an extensive consultation with parents or its parent-teacher association ("PTA"). Same as the full consultation with parents, the school must explain to parents/PTA its reasons for school fee revision, provide them with relevant financial information, including the school's accumulated operating reserve, and properly address the concerns of parents.

EDB'S MECHANISM FOR APPROVING APPLICATIONS FOR SCHOOL FEE REVISION BY PRIVATE SCHOOLS[10]

3.11 In the process of approving a private school's application for school fee revision, EDB will take into account the proposed percentage of fee revision, the justification and other factors cited by the school, such as socioeconomic situation and the school's operating costs, including rentals, salaries for teaching staff, or the school facilities and services in need of improvement. EDB will also take reference from the school fees charged by other private schools. In the absence of reasonable justification for school fee revision, the school's application for school fee revision will be rejected.

[10] The mechanism is not applicable to the 15 international schools under ESF (see note 6).

3.12 EDB explained that since private schools are not operated on subsidies from the Government, they have to revise school fees in line with the rise of operating costs to maintain financial viability. Private schools thus need to reserve more capital to cater for school operation, fluctuation in number of students or other contingencies. Consequently, EDB allows greater flexibility for private schools in handling their applications for school fee revision.

3.13 EDB indicated that in a way different from DSS schools that are subsidised by the Government, private schools are not required to disclose their financial accounts in detail when applying for school fee revision. Neither will EDB handle their applications in a microscopic manner by carrying out audit or inspection procedures. However, private schools are still required to submit to EDB their justification for school fee revision and information about their financial position.

3.14 Starting from the 2018/19 school year, EDB has required private schools to submit the relevant applications at least four months prior to the commencement of the next school year. For those private schools applying for drastic fee increase or having revised their school fees in consecutive years, they are required to submit to EDB relevant supporting documents (such as copies of tenancy agreements, teaching and supporting staff payrolls/mandatory provident fund remittance statements) and information about parent consultation (such as letters to parents and records of PTA meetings, which can show that the schools have effectively informed parents and obtained their consent to school fee revision). EDB has uploaded the Points to Note on Fee Revision Application of Private Schools to its website for public reference. In particular, it is specified that private schools should submit to EDB certain documents for proving that the schools have clearly and thoroughly advised parents of their justification for fee revision, and the planned use and proposed amount of school fees, and that the schools have properly addressed the concerns of parents. For those private schools applying for drastic fee increase or having revised their school fees in consecutive years, they are required to prove that they have informed the majority of parents of the proposed fee

revision through effective channels, and obtained consent from parents. Moreover, where a private school has applied for drastic fee revision in consecutive years, EDB will require it to provide further details or supporting documents and information. For instance, EDB will scrutinise whether identical or similar justification has been submitted by the private school in its past applications, thereby evaluating the reasonableness of its justification.

3.15 In those cases that the school fee revision is not drastic, EDB will not require the private schools to submit documents to support its justification for fee increase, or information about consent obtained from parents. Nevertheless, the schools are still required to provide justification and prove that they have already informed parent representatives/associations of the fee revision arrangements, and explained to parents the reasons for school fee revision. EDB remarked that private schools are self-financed and bear all their own expenses. Their financial position is directly affected by change in such factors as consumer prices, staff salaries and number of students. Parents should understand and accept the modes of operation of private schools when making such a choice for their children.

4

OVERVIEW OF APPLICATIONS FOR SCHOOL FEE REVISION BY DSS/PRIVATE SCHOOLS

APPLICATIONS FOR SCHOOL FEE REVISION BY DSS SCHOOLS

4.1 During the five school years from 2014/15 to 2018/19, the applications for school fee revision by DSS schools are given in **Table 2**.

Table 2: Statistics of applications for school fee revision by DSS schools

	School year	2014/ 15	2015/ 16	2016/ 17	2017/ 18 (x)	2018/ 19
(a)	Total no. of DSS schools in Hong Kong	82	82	82	82	81

(b)	Of (a), no. of DSS schools applying for school fee revision *((b)÷(a))*	40 (49%)	45 (55%)	39 (48%)	47 (57%)	45 (56%)
(c)	Of (b), no. of DSS schools given approval to increase school fees at a percentage lower than the Threshold# *((c)÷(b))*	28 (70%)	37 (82%)	33 (85%)	37 (79%)	39 (87%)
(d)	Of (b), no. of DSS schools given approval to increase school fees at a percentage higher than the Threshold# *((d)÷(b))*	12 (30%)	8 (18%)	6 (15%)	9 (19%)	6 (13%)
(e)	Of (b), no. of DSS schools whose application rejected *((e)÷(b))*	0	0	0	1[11] (2%)	0

\# Details about the Threshold applicable to DSS schools are given in **Table 1** under **para. 3.8**.

4.2 Having scrutinised information about the DSS schools given approval by EDB to revise school fees during the five school years from 2014/15 to 2018/19, we found that a few (six to 12 schools annually) were permitted to increase school fees at a percentage higher than the Threshold (see **row (d)** in **Table 2**). Given the media reports that some DSS schools increased school fees by as much as 20% in the 2017/18 school year (see **para. 1.1**),

[11] In that application, EDB evaluated that the DSS school concerned, based on its financial position in the 2016/17 school year, would still have sufficient accumulated operating reserve to cope with its estimated expenditure for the 2017/18 school year. EDB thus rejected its application.

we asked EDB to provide the list of all 47 DSS schools which had applied for school fee revision for that school year (see **column (x), row (b)** in **Table 2**), together with the amount of school fees and percentage of increase upon approval of their applications, for our perusal. The information shows that nine DSS schools were given approval to increase school fees at a percentage higher than the Threshold, either across all grades or for certain grades (see **column (x), row (d)** in **Table 2**). Of which, six increased school fees at 6.3% to 17%, two at 20%, and the remaining one at 50% for two grades. Cases of the DSS schools given approval to increase school fees at nearly or higher than 20%, and EDB's reasons for approving their applications are detailed in **Table 3**.

Table 3: Cases of DSS schools given approval to increase school fees at nearly or higher than 20%

DSS school and percentage of fee increase (school year)	EDB's reasons for approving the application for school fee revision
School A – 20% increase for P1 to P6 (2017/18 school year)	School A applied for revising the school fees of P1 to P6. The actual amount increased by \$3,000 year-on-year. School A had joined DSS in 2008 and had not revised its school fees for the previous nine years. The school planned to deploy the extra financial resources from fee increase to strengthen its learning and teaching practice, such as implementing or enhancing its existing curriculum and funding the daily operating expenses of a newly completed swimming pool building. School A had consulted parents about the school fee revision, and received support for fee increase from 82% of the parents who had replied. Neither School A nor EDB received any objection from parents.
School B – 20% increase for S1 to S6 (2017/18 school year)	School B applied for revising the school fees of S1 to S6. The actual amounts increased by \$743 (for S1 to S3) and \$1,809 (for S4 to S6) year-on-year. School B submitted that its main reasons for school fee revision were to employ more teaching staff for enhancing teaching quality, to install extra resources and facilities for

	developing STEAM (science, technology, engineering, arts and mathematics) education, and to maintain the school's financial stability. School B had consulted parents about the school fee revision, and received support for fee increase from 100% of the parents who had replied. Neither School B nor EDB received any objection from parents.
School C – 50% increase for S4 and S5 **(2017/18 school year)**	School C applied for revising the school fees of S4 and S5, while the school fees of the other grades remained unchanged. The actual amount increased by $1,000 year-on-year. School C submitted that its main reasons for school fee revision were to enhance the teaching quality of senior secondary grades and to optimise the learning environment, including organising after-school augmentation and consolidation programmes, and providing more exchange and visit activities. It also needed to maintain its financial stability. After school fee revision, its estimated accumulated operating reserve would be equal to 2.65 months of operating expenses, just slightly higher than the minimum 2 months of operating expenses required by EDB for the reserve of DSS schools. School C had issued a circular to consult parents about the school fee revision. An overwhelming majority of parents consented to the proposed fee revision. Neither School C nor EDB received any objection from parents.
School D –	School D applied for revising the school fees of

Nearly 20% increase for S1 to S6 **(2018/19 school year)**	S1 to S6. The actual amounts increased by $900 (for S1 to S3) and $1,150 (for S4 to S6) year-on-year. EDB considered that the actual amounts of school fee revision proposed by School D were not high. School D submitted that its main reasons for school fee revision were to deploy the funds from school fee increase on improving its student-teacher ratio, and adding more teaching facilities for promoting STEM (science, technology, engineering and mathematics) education. After school fee revision, its estimated accumulated operating reserve would be equal to one month of operating expenses, lower than the minimum 2 months of operating expenses required by EDB for the reserve of DSS schools. School D had consulted parents about the school fee revision, and received support for fee increase from nearly 100% of the parents who had replied. Neither School D nor EDB received any objection from parents.

APPLICATIONS FOR SCHOOL FEE REVISION BY PRVIATE SCHOOLS

4.3 During the five school years from 2014/15 to 2018/19, the applications for school fee revision by private schools are given in **Table 4**.

Table 4: Statistics of applications for school fee revision by private schools

	School year	2014/15	2015/16	2016/17	2017/18 (y)	2018/19
(a)	Total no. of private schools in Hong Kong	153	151	154	161	166
(b)	Of (a), no. of private schools applying for school fee revision *((b)÷(a))*	111 (73%)	118 (78%)	118 (77%)	121 (75%)	134 (81%)
(c)	Of (b), no. of private schools given approval to increase school fees at less than 10% *((c)÷(b))*	100 (90.1%)	108 (92%)	108 (92%)	115 (95%)	129 (96.3%)
(d)	Of (b), no. of private schools given approval to increase school fees at more than 10% *((d)÷(b))*	9 (8.1%)	10 (8%)	10 (8%)	6 (5%)	2[12] (1.5%)

[12] The two private schools were given approval to increase school fees at 11% and 14% respectively.

(e)	Of (b), no. of private schools whose applications rejected *((e)÷(b))*	2[13] (1.8%)	0	0	0	3[14] (2.2%)

4.4 Having scrutinised information about the private schools given approval by EDB to revise school fees during the five school years from 2014/15 to 2018/19, we found that two to ten schools were permitted to increase school fees at more than 10% (see **row (d)** in **Table 4**). Given the media reports that some private schools increased school fees by as much as 20% in the 2017/18 school year (see **para. 1.1**), we asked EDB to provide the list of all 121 private schools which had applied for school fee revision for that school year (see **column (y), row (b)** in **Table 4**), together with the amount of school fees and percentage of increase upon approval of their applications, for our perusal. The information shows that among the 121 private schools whose applications were approved, six increased school fees at more than 10%, either across all grades or for certain grades (see **column (y), row (d)** in **Table 4**). Of which, five increased school fees at 10.2% to 15%, and the remaining one at 25% for one grade. Cases of the private schools given approval by EDB to increase school fees at higher percentages, and EDB's reasons for approving their applications are detailed in **Table 5**.

[13] In the 2014/15 school year, two private schools had their applications for school fee

[14] In the 2018/19 school year, three private schools had their applications for school fee revision rejected. In two of the applications, EDB, after reviewing the schools' financial position, found that they were not in urgent financial need of school fee revision. Furthermore, EDB received written objection from parents, which indicated that the schools had not properly addressed concerns from parents. As regards the remaining one rejected application, EDB explained that the justification submitted by the school included establishing a second school premises, setting aside provision for the maintenance costs of the existing school premises, and employing expatriate teaching staff. Taking into account that its existing school premises had been in use for merely two years, and the whole school had only some 30 students when it applied for school fee revision, EDB considered the school's justification for school fee revision inadequate.

Table 5: Cases of private schools given approval to increase school fees at higher percentages

Private school and percentage of fee increase (school year)	EDB's reasons for approving the application for school fee revision
School E – About 15% and 21% increase for P1 and P4 (2014/15 school year) **About 16% for P1 (2015/16 school year)**	When School E applied for school fee revision in the 2012/13 school year, it had already informed EDB that major improvement works were to be carried out on its school premises. The total costs, estimated to be $15 million, would be recognised on accounts in instalments over several years. During the improvement works, School E had to incur extra expenses for the use of a temporary school premises. In that and the 2013/14 school year, School E was given approval to increase the school fees of P1 and P2 at around 12%. In the 2013/14 school year, it was also given approval to increase the school fee of P3 at nearly 19%. Moreover, School E planned to develop into a school using English as the language of instruction. From the 2012/13 to 2015/16 school years, School E continued to employ more teaching and supporting staff each year, including assistant teachers, teaching assistants, expatriate English teachers, curriculum officers and information technology staff. It also needed to adjust the salaries of incumbent teachers. As School E had recorded deficits of over a million dollars for several years since the

	2011/12 school year, EDB accepted that it was in actual need of school fee revision. School E had communicated with parents and addressed their concerns regarding the application for school fee revision each year.
School F – 14% increase for Grades 1-3 (2016/17 school year)	School F applied for revising the school fees of Grades 1-3. The actual amount increased by $6,000 year-on-year. School F had recorded financial deficits, hence it was in actual need of fee increase to cope with inflation, staff pay rise and the maintenance expenses of school premises. The annual school fees proposed by School F ($43,200 for primary school and $48,000 for secondary school) were lower than the median annual school fee charged by non-public sector schools. School F had consulted parents about the school fee revision and did not receive any objection from parents.
School G – About 18% to 24% increase for Grades 7-12 (2016/17 school year)	School G had not increased school fees in the 2015/16 school year. From the 2016/17 school year, School G had adopted a pull-out teaching approach for enhancing students' capabilities in English learning, hence it was in need of employing at least one more English teacher. The school fee income would also provide funding for books, e-books, e-learning platforms, etc. to be used by students. The revised school fees proposed by School G were lower than the median annual school fee charged by non-public sector schools, and also lower than the school fees charged by the

	international schools in the vicinity.
School H – 25% increase for P1 (2017/18 school year)	School H applied for revising school fees in the 2017/18 school year. The actual amounts increased by $10,000 (for P1) and $5,000 (for P2 to P6) year-on-year. With financial deficits, School H was in actual need of fee increase to cope with the rise in consumer prices and staff salaries, and the maintenance expenses of school premises. In the 2016/17 school year, School H had suspended student admission for P1 with the school fees remained frozen. When it resumed the admission of P1 students in the 2017/18 school year, the school fee of that grade was revised on a par with other grades, resulting in a higher percentage of fee increase for P1. Nonetheless, School H eventually did not admit any new P1 students in the 2017/18 school year. In the 2016/17 school year, School H only had four students, all enrolled in P3. About the fee increase, it had consulted the parents of the three students who intended to advance to its P4 in the 2017/18 school year, and indicated that assistance would be offered to parents if they had financial difficulties. No objection was received from parents.

5

EDB's Mechanism for Approving Collection of Other Charges by Private Schools

COLLECTION OF OTHER CHARGES BY PRIVATE SCHOOLS

5.1 Private schools are mainly operated on a self-financing basis according to market-driven principles. To meet their financial needs for such purposes as teaching, school development, facility improvement and infrastructure projects, private schools generally raise capital through various means, including reallocation of surpluses (if any) generated by schools in the same group, loans and fundraising schemes.

5.2 The multiple forms of fundraising schemes adopted by private schools include debentures, school construction fees, nomination right fees and capital project levies. The following table gives some examples of other charges collected by two of the private schools in Hong Kong.

Table 6: Examples of other charges collected by private schools

	Name of charge, amount (in HK dollars) and purposes*	Terms and conditions	Notes
Private School X	(a) **Capital Levy** ● $20,000 ● For funding various projects/development programmes of the school	● Annual payment ● Non-refundable	Parents are required to opt for paying one of the charges from (a) to (c)
	(b) **Depreciating Debenture** ● $100,000 ● For funding various projects/development programmes of the school	● One-off payment ● Refundable	
	(c) **Gold Debenture** ● $3,000,000 ● For funding various projects/development programmes of the school	● One-off payment ● Non-refundable ● Nominated students will be granted priority for admission if they meet the	

		enrolment criteria	
Private School Y	(a) **Capital Levy** • $60,000 • For funding the construction and maintenance of school premises, and procurement of equipment and facilities	• Annual payment • Non-refundable	Parents/ corporates are required to opt for paying one of the charges from (a) to (d)
	(b) **Individual Debenture** • $600,000 • For funding the construction and maintenance of school premises, and procurement of equipment and facilities	• One-off payment • Refundable • Nominated students will be granted priority after those under (c) and (d) for admission if they meet the enrolment criteria	
	(c) **Individual Capital Certificate** • $5,000,000 • For funding the construction and maintenance of school premises,	• One-off payment • Refundable • Nominated students will	

	and procurement of equipment and facilities	be granted priority for admission if they meet the enrolment criteria ● Transferrable through the school	
	(d) **Corporate Capital Certificate** ● $5,000,000 ● For funding the construction and maintenance of school premises, and procurement of equipment and facilities	● One-off payment ● Non-refundable ● Nominated students will be granted priority for admission if they meet the enrolment criteria ● Transferrable through the school	

* Based on information in the 2017/18 school year from websites of the private schools concerned.

EDB'S MECHANISM FOR APPROVING COLLECTION OF OTHER CHARGES BY PRIVATE SCHOOLS

5.3 We inquired with EDB about its mechanism for monitoring

the collection of other charges by private schools, approval procedures and criteria for approving the applications.

EDB's Initial Response

5.4 EDB initially replied that, as far as it noticed, some private schools collect certain refundable charges, including debentures and school construction fees, to meet their financial needs for such purposes as school development, facility improvement and infrastructure projects, in circumstances that are known and understood by parents. EDB stated that private schools are generally not required to obtain approval from EDB for collecting those refundable charges. As understood by EDB, it is usually optional for the parents of students to participate in the scheme of debentures or nomination rights issued by the schools. When the students leave school, their parents will be refunded in full or at the prevailing value. Under the market-driven and user-pays principles, EDB has all along required that prior to the launch of fundraising schemes (including nomination right, debenture or school construction schemes), sponsoring bodies should consult parents and other stakeholders, and clearly explain to them the justification and specific arrangements for operating the schemes, thereby reaching a consensus with all parties concerned. EDB asserted that according to the legal advice obtained in the past, it has all along held that the debentures or maintenance fees are private financial arrangements between the private schools and parents, and hence not requiring approval from the Bureau.

5.5 As regards other charges which are non-refundable, EDB indicated that it would consider applications from private schools for the collection of other non-refundable charges on the basis of their justification for application, including such information as the purpose, needs of the schools and students, communication between the schools and parents, financial position of the schools and their relevant accounts. In the past, some of those applications were approved by EDB. On the other hand, where a school failed to provide adequate and reasonable justification and supporting documents to show that the charges collected were in line with the

school's development and the needs of students, or that it had properly addressed the concerns of parents, the relevant application would be rejected. Given the increasing complexity of such charges collected by private schools and diversified forms of their fundraising schemes, EDB is in the process of gathering relevant information from private schools to gauge the latest situation, thereby ensuring that the financial arrangements of private schools are in compliance with legislative provisions. Where necessary, EDB will draw up a proper plan for taking further action after considering all relevant factors and legal advice.

Our Follow-up Inquiries

5.6 In response to EDB's reply that private schools can collect other refundable charges without the Bureau's prior approval (see **para. 5.4**), we pointed out to EDB that such practice is incompatible with regulation 61(1) of the Education Regulations. Pursuant to that regulation, no school shall charge any money or any school fees whatsoever other than the inclusive fees as printed on the certificate issued by EDB. A school must be approved by the PS for Education in writing before charging any money or school fees other than the inclusive fees as printed on the certificate (see **para. 2.1(3)**). We asked EDB to explain its perspective, including whether it had obtained legal advice in this regard.

5.7 We also requested EDB to clarify whether private schools are required to obtain its prior approval before collecting other non-refundable charges (see **para. 5.5**). If yes, we asked EDB to elaborate on the relevant application mechanism, procedures and its criteria for approving the applications, and provide details of those non-refundable charges collected by all private schools in Hong Kong.

EDB's Further Response

5.8 EDB replied that since our inquiries involve legislative interpretation, and the fundraising schemes of private schools have

become increasingly complex and diversified in recent years, it therefore obtained legal advice again. Having considered the latest legal advice and actual circumstances, EDB now concedes that pursuant to regulation 61(1) of the Education Regulations, all school fees in relation to the school education received by students, including such other charges as debentures and school construction fees (refundable or non-refundable alike), collected by private schools should be subject to the Bureau’s approval.

5.9 Moreover, regarding the fundraising schemes (with the capital refundable or non-refundable) of private schools, EDB has gathered relevant information from private schools and largely completed a preliminary analysis. Due to the complex and diversified forms of other charges collected by private schools, for example, some debentures or maintenance fees are not fully refundable, certain charges are transferrable, and parts of the charges are collected from parents or students not directly by some private schools but through their sponsoring bodies or other organisations associated with school operation in different periods, EDB found it probably necessary to seek further advice in the legal/financial/accounting fields so as to devise proper application and approval procedures for different forms of other charges.

5.10 EDB also indicated that at this stage private schools are generally not aware that they actually need to apply for approval from EDB regarding other charges. Upon completing the above process of seeking advice in the legal/financial/accounting fields, EDB will hold meetings with private schools to learn more about their situations. After the consultation process, EDB will draw up details about the monitoring mechanism and make announcements to inform private schools of the relevant application and approval procedures.

6

OUR COMMENTS AND RECOMMENDATIONS

OUR COMMENTS

6.1 In the light of our findings above, we have the following comments on EDB's mechanisms for approving the applications for school fee revision by DSS/private schools and the collection of other charges by private schools.

EDB's Mechanisms for Approving Applications for School Fee Revision by DSS/Private Schools

6.2 EDB has established and has been following the existing mechanisms to approve the applications for school fee revision by DSS/private schools (see **paras. 3.6 – 3.15**). Regardless of the percentage of increase in their applications for school fee revision, DSS/private schools must submit to EDB their justification for application, information on their financial positions and information about parent consultation/notification (see **paras. 3.6, 3.9 – 3.11, 3.14 and 3.15**). EDB has also imposed the Threshold on DSS schools' applications for school fee revision. If a DSS school proposes to increase school fees at a percentage higher than the Threshold, or despite being at a percentage equal to or lower than the Threshold, its accumulated total operating reserve at the end of the previous school year exceeded its annual operating expenses in the same year, the school must conduct a full consultation with parents and receive consent to the school fee revision from an overwhelming majority of the parents who return the reply slips

(see **paras. 3.7 and 3.9**).

6.3 The statistics from EDB show that during the five school years from 2014/15 to 2018/19, the number of DSS schools which had applied for school fee revision each year represented 48% to 57%of the total number of DSS schools in Hong Kong (see **row (b), Table 2** under **para. 4.1**). Except for one application, which was rejected (see **row (e), Table 2 and note 11**), all the other applications were approved, of which most (70% to 87%) were permitted for fee increase at a percentage lower than the Threshold (see **row (c), Table 2**).

6.4 During the same period, the number of private schools which had applied for school fee revision represented 73% to 81% of the total number of private schools in Hong Kong (see **row (b), Table 4** under **para. 4.3**). All except five of the applications were approved by EDB. EDB has explained why it rejected the applications (see **row (e), Table 4 and notes 13 – 14**). Starting from the 2018/19 school year, EDB has required those private schools applying for drastic fee increase or having revised their school fees in consecutive years to enclose documents to show justification and necessity for the school fee revisions (see **para. 3.14**). Before the 2018/19 school year, EDB had all along decided whether to approve the applications according to the established mechanism by reviewing the private schools' justification for application, financial position and information about parent consultation/notification (see **para. 3.11**). In the 2018/19 school year, only two (1.5%) private schools were given approval to increase school fees by more than 10%, one at about 11% and the other about 14% (see **row (d), Table 4 and note 12**).

6.5 Given the media reports that some DSS/private schools increased school fees by as much as 20% (see **para. 1.1**), we have scrutinised information about their applications for school fee revision approved during the five school years from 2014/15 to 2018/19. Based on the information provided by EDB, there were indeed DSS/private schools given approval to increase school fees at a percentage close to or higher than 20%, either across all

grades or for certain grades. However, those were only isolated cases (see **paras. 4.2 and 4.4**). EDB has explained why it approved the applications for school fee revision at higher percentages submitted by some DSS/private schools (see **Table 3** under **para. 4.2 and Table 5** under **para. 4.4**). We find no impropriety on the part of EDB in making approval according to its established mechanisms after reviewing the schools' justification for application, financial position and the opinions of parents.

EDB's Purview over Collection of Other Charges by Private Schools

6.6 Apart from school fees, some private schools often collect other refundable or non-refundable charges under various names, such as school construction fees, capital project levies and nomination right fees, ranging up to millions of dollars (see **Table 6** under **para. 5.2**).

6.7 As regards other charges which are non-refundable, EDB indicated that it would consider the relevant applications from private schools on the basis of their justification for application (see **para. 5.5**). Nevertheless, EDB is unable to give clear details on the overall application mechanism, procedures and approval criteria, which shows that it has not fully comprehended the situation about other charges collected by private schools.

6.8 Moreover, EDB is the designated department responsible for monitoring the operation of schools under the Education Ordinance and the Education Regulations. Over the years, the Bureau has been adopting a liberal approach in its interpretation of relevant provisions based on the legal advice received a long time ago, which considered the collection of other refundable charges by private schools a private financial arrangement between the schools and parents, and hence not requiring approval from the Bureau (see **para. 5.4**). We pointed out to EDB that its long-established practice is incompatible with regulation 61(1) of the Education Regulations (see **para. 5.6**). After seeking further legal advice, EDB conceded that the collection of any other charges (refundable

or otherwise) by private schools in relation to the school education received by students should be subject to the Bureau's approval (see **para. 5.8**). EDB has now gathered information from private schools about other charges collected by them and largely completed a preliminary analysis (see **para. 5.9**). It intends to seek further professional advice before drawing up the application and approval procedures for the various forms of other charges, and then make relevant announcements to inform the private schools (see **paras. 5.9 and 5.10**).

OUR RECOMMENDATIONS

6.9 Given that EDB has now clarified its purview over the collection of other charges by private schools, The Ombudsman recommends that EDB:

(1) establish a more comprehensive application and approval mechanism regarding other charges collected by private schools, and make announcements to inform private schools and other stakeholders as soon as possible; and

(2) create a database on other charges collected by private schools to keep track of the overall situation.

ACKNOWLEDGEMENTS

6.10 The Ombudsman thanks EDB for its full cooperation in the course of this investigation.

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